

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES D. LYONS,)	Case No. 4:03 CV 0244
)	
Plaintiff,)	Judge Peter C. Economus
)	
vs.)	REPORT AND RECOMMENDATION
)	OF MAGISTRATE JUDGE
UNITED STATES OF AMERICA,)	(Regarding Docket No. 52)
)	
Defendant.)	Magistrate Judge James S. Gallas
)	

Plaintiff's "motion for judicial review and directed order" (Docket No. 52) seeks transfer of this matter to the Eastern District of North Carolina. However, plaintiff has not made a strong case for transfer of venue under 28 U.S.C. §1391 or §1404. Lyons refers to Judge Polster's decision in another case, *Lyons v. Azam*, 58 Fed. Appx. 85 (6th Cir. Ohio 2003) involving requests for injunctive relief. In that case Judge Polster held that plaintiff's complaint was moot given that he had been no longer incarcerated in the facility where the defendants had worked. Plaintiff has expressed fear in his complaint that the Bureau of Prisons is now free to return him to FCI Elkton (See ¶48 of Amended Complaint). The undersigned speculates that perhaps plaintiff sees a transfer of his case as a means of securing his present incarceration at FMC Butner, North Carolina. Nevertheless, from the complaint it appears that for convenience of witnesses, the Northern District of Ohio is the preferable venue for trial. The other reasons given for transfer by Lyons are primarily his dissatisfaction with the undersigned's rulings. Change of venue was not intended as a vehicle for judge-shopping. Accordingly, the motion should be denied.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of mailing of this notice. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. See *U.S. v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).

s/James S. Gallas
United States Magistrate Judge

August 24, 2005